Germantown ZBA Meeting

Thursday, June 23, 2016

Members in attendance: Chairman Savoris, Joe Guida, Teresa Repko and Chuck Abraham. Town Attorney Rappleyea also in attendance.

Meeting opened at 7:10 p.m. by Chairman Savoris, minutes were reviewed and on a motion by Teresa and seconded by Chuck were accepted as written with all in favor and none opposed.

Chairman Savoris announced that the meeting was for an interpretation of the Zoning Laws and decision of the ZBA, and asked for a motion to open Pubic Hearing. On a motion by Teresa and seconded by Chuck with all in favor and none opposed Public Hearing was opened.

Attorney Replansky representing Mr. Kimmel and Mr. Trapp of 153 Main Street submitted to the Board exhibits A-N, of which exhibits D and G are maps submitted separately. Mr. Replansky explained to the board that his clients and he feel that the main issue is that a building permit was issued incorrectly to Mr. Mark Tenay of 149 Main Street , where a sewer is not properly connected. It is stated by Mr. Replansky that there is a lack of easement which is a major concern and their hope is to have Mr. Tenay agree to and sign an easement tonight ( new easement drafted has been submitted to board and put in record), and asked if Mr. Tenay is in the audience. There is no response as Mr. Tenay is not present. Mr. Replansky in his review of exhibits A-N explained that there was no authority given to anyone to go onto the property to connect the sewer, therefore there leaves area of concern if there is to ever be any repair or maintenance of this sewer section that crosses the property of 153 Main Street. He went on to state section of Town Law that gives the board power to appeal the decision of the Building Department, submitted case law showing that in an instance a permit can be revoked even if town has made a mistake. History of the the Denowski property, estate sale, administration of deed, and discussions of easements are all reviewed. Maps, sewer plans are reviewed. Mr. Replansky stated that municipalities do not have the right to go someone’s property, the mal placement of this sewer onto his client’s property renders the property useless and is looking for the easement to be signed to protect appellants. He asked that a stop work order and revocation of building permit be issued until an easement can be agreed upon, again asking if Mr. Tenay is in audience, and at that time Mr. Tenay is not present.

Chairman Savoris asked the audience for any questions and/or concerns. Attorney Rappleyea asked if there was an easement prepared, and if Mr. Tenay has ever been approached to discuss.

Mr. Kimmel stated that realtor Julie Meacher can verify conversations between he and Mr. Tenay regarding the easement between their two properties. He also stated that he is not looking to dig up sewer and will allow it to stay, if the easement is signed. Mr. Kimmel is angered that there was no consulting done by the town sewer department with the town engineer or attorney.

Margaret della Cioppa asked who is paying the appellants legal fees and should the Town be held responsible to help.

Mr. Art Cady asked if there has been classification of a stream on the property of Mr. Tenay and if he needed a site plan review from the Planning Board.

Mr. Kimmel gave a final statement that he and Mr. Trapp just want to have what should be legally done put into effect.

No further comments are made by the audience, and on a motion by Teresa, seconded by Chuck with all in favor and none opposed the Public Hearing is closed.

Chairman Savoris stated to the board that after review of all information submitted, and comments of the audience that the board should vote their decision. Before vote Attorney Rappleyea asked if Mr. Tenay is present in the audience and he is not. Motion is made by Teresa to vote to Revoke the Building Permit, seconded by Joe with all in favor and none opposed. The Board voted as follows: Chairman Savoris- revoke permit, Joe Guida- revoke permit, Teresa Repko-revoke permit and Chuck Abraham-revoke permit. Joe added he feels the board is being reasonable, and Teresa stated she feels the board has a duty.

Attorney Rappleyea will prepare a Notice of Action and Stop Work Order and Revocation of Building Permit to be issued to Mr. Tenay.

On a motion by Teresa, seconded by Joe with all in favor and none opposed the meeting was closed at 8:20 p.m.

Jami L. DelPozzo- Secretary Planning and Zoning